



Billing Code 3110-01

OFFICE OF MANAGEMENT AND BUDGET

Procedures for Participating in the Appeals Process for the 2020 Census Local Update of Census Addresses Operation (LUCA)

AGENCIES: Executive Office of the President, Office of Management and Budget, Office of Information and Regulatory Affairs.

ACTION: Notice and request for comments.

SUMMARY: As part of implementing the Census Address List Improvement Act of 1994, the Office of Management and Budget (OMB) requests public comment on the Appeals Process whereby tribal, state, and local governments participating in the 2020 Census Local Update of Census Addresses Operation (LUCA) may appeal determinations made by the Census Bureau with respect to their suggested changes to the 2020 Census Address List. For information purposes, this notice also describes the LUCA Feedback materials that the Census Bureau will provide to participating governments and how those governments can use the materials as the basis for an appeal.

The 2020 Census LUCA Operation was available to tribal, state, and local governments located in areas for which the Census Bureau develops an address list in advance of the census. The Bureau issued final procedures for participation in the 2020

Census LUCA Operation in a *Federal Register Notice* Vol. 81. No. 215 on November 7, 2016.

Request for Comments: OMB is seeking comments on the proposed procedures for the 2020 Census LUCA Appeals Process. Comments submitted in response to this notice may be made available to the public, including by posting them on OMB's web site. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

Electronic Availability: This notice is available on the Internet from the OMB web site at <https://www.whitehouse.gov/omb/>. *Federal Register* notices are also available electronically at <https://www.federalregister.gov/>.

DATES: To ensure consideration during the decision-making process, OMB must receive all comments in writing on or before 30 days from publication of this notice.

ADDRESSES: Comments concerning the proposed appeals procedure may be addressed to: Nancy Potok, Chief Statistician, Office of Management and Budget, fax

number (202) 395-7245 – E-mail comments may be sent to MBX.OMB.OIRA.2020LUCAAppealsProcess@OMB.eop.gov, with the subject 2020 Appeals Process. Alternatively, comments may also be sent via <http://www.regulations.gov> – a Federal E-Government web site that allows the public to find, review, and submit comments on documents that agencies have published in the *Federal Register* and that are open for comment. Simply type “Local Update of Census Addresses” (in quotes) in the Comment or Submission search box, click Go, and follow the instructions for submitting comments. Comments received with the subject “2020 Appeals Process” by the date specified above will be included as part of the official record.

Correspondence about the 2020 Census LUCA Operation should be sent to Robin Pennington, Deputy Chief, Decennial Program Management Office, U.S. Census Bureau, Washington, D.C. 20233, telephone (301) 763-8132, email robin.a.pennington@census.gov.

Because of delays in the receipt of regular mail due to security screening, you are encouraged to use electronic communications to transmit your comments in order to ensure timely receipt.

FOR FURTHER INFORMATION, CONTACT: For information about the proposed Appeals Process, contact Kerrie Leslie, Office of Management and Budget, 9215 New Executive Office Building, Washington, D.C. 20503, telephone (202) 395-1093. For information about the Census Bureau’s 2020 Census LUCA Operation, contact Robin

Pennington, Deputy Chief, Decennial Program Management Office, U.S. Census Bureau, Washington, D.C. 20233, telephone (301) 763-8132, email robin.a.pennington@census.gov.

SUPPLEMENTARY INFORMATION:

The Census Address List Improvement Act of 1994

The Census Address List Improvement Act of 1994 (Pub. L. No. 103– 430) mandates the establishment of a program to be used by the Census Bureau for developing the decennial census address list and address lists for other censuses and surveys conducted by the Bureau. The Act’s provisions direct the Secretary of Commerce to: (1) publish standards defining the content and structure of address information that tribal, state, and local governments may submit to be used for developing a national address list; (2) develop and publish a timetable for the Census Bureau to receive, review, and respond to submissions; and (3) provide a response to the submissions regarding the Census Bureau’s determination for each address. The Act provides further that OMB’s Administrator of the Office of Information and Regulatory Affairs, acting through the Chief Statistician and in consultation with the Census Bureau, shall develop a process for tribal, state, and local governments to appeal determinations of the Census Bureau. The Act also directs the U.S. Postal Service to provide the Secretary of Commerce with address information, as appropriate, for use by the Census Bureau.

The Act authorizes the Census Bureau to provide designated officials of tribal, state, and local governments with access to census addresses information. Prior to the 2000 Census, the Census Bureau was limited to providing block summary totals of addresses to tribal and local governments. The 2000 Census marked the first decennial census where tribal and local governments were able to review the census address list. The 2010 Census was the first decennial census to invite state governments to participate in the LUCA program.

The Census Bureau's 2020 Census LUCA Operation

As mentioned above, the 2020 Census LUCA Operation is governed by procedures finalized and issued in November, 2016. This section provides more detail on the process that tribal, state, and local governments use to participate in the 2020 Census LUCA Operation.

For the 2020 Operation, participating governmental jurisdictions review and provide updates to the census address list. Participants opt to receive materials in paper or computer-readable formats, or use Census Bureau supplied software to update their jurisdiction's map features and address list. Jurisdictions with more than 6,000 addresses are required to participate using a computer-readable address list or the Census Bureau supplied software. All LUCA participants are required to "geocode" each address they add (i.e., identify for an individual address its correct geographic location including the latitude/longitude coordinate location or the correct state, county, census tract, and census block codes). The census tract and census block numbers are displayed on the Census Bureau supplied maps, digital shapefiles

and software tools. Additionally, all LUCA participants can make updates and corrections to the features on the Census Bureau supplied maps or digital shapefiles.

All participants are required to sign a Confidentiality Agreement in accordance with Title 13, United States Code (U.S.C.) to maintain the confidentiality of the census address information they received from the Census Bureau for review. Participants receive the LUCA Address List, Address Count List (providing a count of addresses within each census block), and census maps or digital shapefiles of their jurisdiction. Participants are required to have the means to secure the census address list containing Title 13 information.

The 2020 Census LUCA Address Validation Process

All addresses submitted by LUCA participants are validated by the Census Bureau. During LUCA validation, Census Bureau staff add, delete, and correct entries on the Census Address List and make needed corrections to census maps based on LUCA submissions. The Census Bureau provides feedback to LUCA participants, conveying the Bureau's determinations on their submission of additions and updates to census address information.

The 2020 Census LUCA Feedback Materials

The Census Bureau will provide LUCA Feedback materials to qualifying governmental jurisdictions as the Census Bureau creates those materials over the span of roughly 6 weeks starting in June 2019 and ending in August 2019. LUCA

participants will receive their feedback materials in the same media format that they requested for the initial LUCA review materials.

The Census Bureau will provide the LUCA Feedback materials after completing the following steps:

- (1) For jurisdictions that submitted address updates to the LUCA Address List, the Census Bureau will review and apply each correctly formatted participant address update to its address list, adding any new addresses not already on its list.
- (2) The Census Bureau will verify the participant suggested address updates (additions, corrections, deletions, etc.) to ensure that all address updates and additions exist and that they are in the correct census block.

Described below are the LUCA Feedback materials that LUCA Operation participants will receive.

The Census Bureau will provide LUCA Feedback materials to tribal, state, or local governments that took any of the following actions:

- (1) Submitted updates (i.e., additions, corrections, deletions) to city-style addresses on the LUCA Address List.

- (2) Certified to the Census Bureau at the end of their LUCA review that the LUCA Address List was correct and needed no update.

The LUCA Feedback materials that the Census Bureau will provide to each participating government will document which local address additions and updates the Census Bureau accepted or did not accept. The LUCA Feedback materials include:

- (1) A Full Address List that contains all of the residential addresses currently recorded in the Census Address List within the participant's jurisdiction. This address list will reflect the results of the jurisdiction's participation in LUCA.
- (2) A Detailed Feedback Address List that shows each address record addition and update submitted by the participant and a processing code that identifies a specific action taken by the Census Bureau on that address record.
- (3) A Full Address Count List that shows the current residential address counts, including those for housing units and group quarters, for each census block within the participant's jurisdiction.
- (4) A Feedback Address Update Summary Report that displays the tallies of actions taken by the Census Bureau for all of the address updates submitted by the participant.
- (5) Feedback maps include feature updates provided by the participant.

**The OMB Office of Information and Regulatory Affairs Administrator's Proposed 2020
Census LUCA Appeals Process**

To ensure that tribal, state, and local governments participating in the 2020 Census LUCA Operation have a means to appeal the Census Bureau's determinations, the Census Address List Improvement Act of 1994 requires that the Administrator of OMB's Office of Information and Regulatory Affairs (OIRA), acting through the Chief Statistician and in consultation with the Census Bureau, develop an Appeals Process to resolve any disagreements that may remain after participating governments receive the Census Bureau's LUCA Feedback materials. This section describes the proposed procedures for that Appeals Process.

A. Overview of the Proposed Appeals Process

Governmental jurisdictions that participated in LUCA and completed a review of LUCA materials may file an Appeal if they meet specified eligibility criteria. When filing an appeal, eligible participants must include supporting documentation that substantiates the existence and location of each appealed address. Eligible participants may file an Appeal with the LUCA Appeals Staff, a temporary Federal entity set up to administer the Appeals Process. After notification by the Appeals Staff that an eligible participant has appealed, the Census Bureau will have 15 calendar days to respond to the Appeal. Appeal decisions will be based solely on a review of written documentation provided to the Appeals Staff by the eligible government and the Census Bureau. The decision of the Appeals Staff will be final. The Appeals Staff is scheduled to conclude its review of appeal submissions by January 31, 2020.

Specific eligibility criteria and detailed requirements for Appeal submissions are provided below.

B. Appeal Procedures for LUCA Participants

1. Eligibility Criteria for Filing an Appeal

Participants who (1) returned additions to or corrections of the 2020 Census Address List, or (2) certified to the Census Bureau after their LUCA review that the 2020 Census Address List was correct and required no update are eligible to file an Appeal.

Eligible governments may appeal (1) address additions and corrections they provided after their initial review of the 2020 Census Address List that the Census Bureau did not accept, (2) addresses that were deleted from the 2020 Census Address List by the Census Bureau during subsequent operations that were not commented on by participants during their initial LUCA review.

When filing an Appeal, eligible LUCA Operation participants must provide (1) contact information for the governmental jurisdiction filing the Appeal, (2) address information for each address being appealed, and (3) supporting documentation that substantiates the existence and/or location of each address being appealed as specified below.

2. Contact Information

Eligible participants must provide the following contact information for the governmental jurisdiction filing the Appeal:

- a. Name of the governmental jurisdiction, and
- b. Name, mailing address, telephone number, and electronic mail address (if any) of that jurisdiction's contact person for the Appeal.

3. Address Information

Address information may be submitted in computer-readable form or on paper. Technical requirements for the format of address information will be included with the feedback materials the participant receives from the Census Bureau.

- a. To appeal the Census Bureau's rejection of an address that was submitted to be added to, or corrected on, the Census Address List (as evidenced by the Census Bureau's final determination code for that address on the Detailed Feedback Address List),

OR

To appeal the Census Bureau's deletion of an address during a previous operation that was not previously commented on by the participant during its initial LUCA review (as indicated for that address on the Detailed Feedback

Address List), provide the following items of information for each appealed address:

- (1) Complete address (including the house number, unit designator if applicable, street name and ZIP Code) or if there is no address a location description of the housing unit or other living quarters
- (2) Control ID number, as provided by the Census Bureau for each address record as part of the feedback address list
- (3) Participant submitted action code
- (4) Census Bureau's Processing Code

Geographic location of the address:

- (5) Census Tract number and Census Block number
or
- (6) Latitude/Longitude coordinate location

4. Supporting Documentation

Eligible participants must provide supporting documentation for each appealed address as specified below. The appeals decisions will be based on a review of documentation provided by the eligible government and the Census Bureau. Eligible governments must submit the following supporting documentation with their Appeals:

1. A written explanation that gives the eligible government's specific recommendations for how each address and location being appealed should appear on the 2020 Census Address List.
2. A written statement that outlines the eligible government's position for why the Appeals Staff should adopt its recommendations. The statement must specifically respond to the explanation that accompanied the Census Bureau's LUCA Feedback materials.
3. For each address (or group of addresses), supporting documentary evidence--including a reference to the exact location on the supporting documentation where the Appeals Staff can find specific evidence--supporting the eligible government's position with respect to the existence or correctness of that address. Useful types of supporting evidence include:
 - (a) Documentation of on-site inspection and/or interview of residents and/or neighbors;
 - (b) Issuance of recent occupancy permit for unit. Building permits are not acceptable as they do not ensure that the units have been built;
 - (c) Provision of utilities (electricity, gas, sewer, water, telephone, etc.) to the residence. The utility record should show that this is not a service to a commercial unit, or an additional service to an existing residence (such as a second telephone line);
 - (d) Provision of other governmental services (housing assistance, welfare, etc.) to residents of the unit;
 - (e) Photography, including aerial photography;

- (f) Land use maps;
 - (g) Local 911 emergency lists, if they distinguish residential from commercial units;
 - (h) Tax assessment records, if they distinguish residential from commercial units.
4. Evidence that demonstrates the quality of address or map reference sources provided as supporting evidence such as:
- (a) Date of the address source;
 - (b) How often the address source is updated;
 - (c) Methods used to update the source;
 - (d) Quality assurance procedure(s) used in maintaining the address source;
 - (e) How the address source is used by the eligible government and/or by the originator of the source.

All Appeal documentation must be filed with the Appeals Staff within 45 calendar days after the eligible government's receipt of its LUCA Feedback materials. The eligible jurisdiction may not submit any materials to the Appeals Staff after the 45-day period has elapsed.

C. Deadline for an Eligible Government to File Appeals

Appeals must be filed by the eligible government within 45 calendar days after that government's receipt of the LUCA Feedback materials. "Receipt" as used herein is

defined as the delivery date reported to the Census Bureau by the delivery service that transmits the feedback materials to the eligible government. In order to safeguard the confidential address materials covered by Title 13, the transmitting of an Appeal to the LUCA Appeals Staff must adhere to the Census Bureau's specific guidelines for handling materials supplied with the feedback materials. The eligible government should transmit its appeal materials to the Appeals Staff following the instructions outlined in the guidelines for handling materials, and must keep a record of the date it transmits these materials. The "filing date" for the Appeals shall be the date the Appeal is transmitted. All Appeals filed after the deadline will be denied as untimely.

D. Where to File an Appeal

Appeals must be sent to the LUCA Appeals Staff following the instructions supplied in the feedback materials. Upon receipt of an Appeal, the LUCA Appeals Staff will send a confirmation to the eligible jurisdiction that its Appeal has been received. The Appeals Staff also will notify the Census Bureau that the Appeal has been filed.

E. Documentation and Supporting Evidence that May be Submitted by the Census Bureau

During the Appeals Process

The Census Bureau is not required to respond to the Appeal or to provide any materials in support of its determination. Upon receipt of notification that an Appeal has been filed, the Census Bureau will have 15 calendar days in which it may (if the Census Bureau so chooses):

1. Submit to the LUCA Appeals Staff written documentation briefly summarizing its position as well as any supporting evidence concerning the appealed addresses,

OR

2. Submit to the Appeals Staff a written statement agreeing to the recommendation(s) in the Appeal.

If the Census Bureau submits any written documentation to the Appeals Staff to support its position, the Census Bureau at the same time must send a copy of its submission to the eligible government. The Census Bureau may not submit any materials to the Appeals Staff after the 15-day period has elapsed.

F. The Appeals Review and Final Decision Process

The Appeals Process will be administered by the 2020 Census LUCA Appeals Staff, which will be setup for approximately 18 months by the Census Bureau as a temporary Federal entity. The Appeals Staff will include Appeals Officers who are trained in the procedures for processing an Appeal and in the examination and analysis of address list information, locations of addresses and housing units, and supporting materials.

For each Appeal, an Appeals Officer will review the Census Bureau's feedback materials and the written documentation and supporting evidence submitted by the eligible

government and the Census Bureau. No testimony or oral argument will be received by the Appeals Officer. Appeals Officers will apply the following principles in conducting their review:

1. The Appeals Officer shall consider the quality of the map or address reference source as the basis for determining the validity of an address (or group of addresses) and its (their) location(s).
 - a. Indicators demonstrating quality of the map or address reference source may include, but are not limited to, timeliness, update methods and frequency, provenance, and congruence with other sources. For example, useful supporting evidence may include, but would not be limited to, local data sources like recent documentation of an on-site inspection, aerial photography, and provision of utilities to the residence.
2. For any address for which the Appeals Officer determines that the quality of the supporting evidence submitted by both parties is of equal weight, the Appeals Officer shall decide in favor of the eligible government.

At the conclusion of the review of an appealed address (or group of addresses), the Appeals Officer will prepare a draft written determination. The draft written determination will be reviewed by a higher-level official on the Appeals Staff. The Director of the Appeals Staff (or his or her designee) will then issue a final written determination to both the eligible government and the Census Bureau. The final written determination will include a brief explanation of the Appeals Staff's decision, and will specify how the appealed address (es) or

its (their) location(s) should appear on the 2020 Census Address List. Each final written determination shall become part of the administrative record of the Appeals Process.

The Appeals Staff's decision is final. The Census Bureau will include all addresses added to, or corrected in, the 2020 Census Address List as a result of the Appeals Process, and attempt to locate and enumerate them. Inclusion of an address on the list does not mean that a living quarters or its inhabitants are actually at the address, or that the address will be included in the final 2020 data summaries. The census-taking process will determine the inclusion status of the address – whether or not it is actually a housing unit – and the final population and housing unit status for each address.

G. Completion of the Appeals Process

Appeals reviews will be completed and written determination issued to the concerned parties as soon as possible. The Appeals Process is scheduled to be completed by the end of January 2020.

Executive Orders 12866 and 13771

This proposed procedural notice is not a significant regulatory action under Executive Order 12866. In addition, this proposed notice is not an EO 13771 regulatory action.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a current, valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 U.S.C., Chapter 35, the Census Bureau requested, and OMB granted its clearance for, the information collection requirements for this operation on November 7, 2016 (OMB Control Number 0607-0994). The Census Bureau's request for a generic clearance covering this operation until 2020 was sent to the OMB on November 14, 2016.

Nancy Potok,
Chief Statistician, Office of Management and Budget.
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